HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-17363-2015
Date of decision:1.12.2015

Sardool Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.J.S.Dadwal, Advocate for the petitioners.
Ms.Manpreet Dhaliwal, AAG, Punjab.
None for the complainant.

RAMESHWAR SINGH MALIK, J. (Oral)

Petitioners have approached this Court by way of instant petition under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.') invoking its inherent jurisdiction for quashing of FIR No.52 dated 13.9.2014 registered under Sections 306 and 34 of the Indian Penal Code ('IPC' for short) at Police Station Mattewal, District Amritsar (Rural) and the consequential proceedings arising therefrom, on the basis of compromise (Annexure P-2).

Notice of motion was issued.

In compliance of the order dated 9.10.2015 passed by this Court, the parties got their statements recorded before the learned trial court. Consequently, report dated 19.10.2015 sent by the learned Additional Sessions Judge, Amritsar has been received which is available on record of the case along with the statements of the parties. Learned Additional Sessions Judge has reported that the parties have made their statements voluntarily and without any pressure. The compromise arrived at between

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the parties has been found to be a genuine one.

Learned counsel for the petitioners submits that the parties have decided to bury the hatchet and are living peacefully. He further submits that continuation of the impugned FIR and subsequent criminal proceedings arising therefrom, are liable to be quashed in the interest of justice.

Learned counsel for the petitioners as well as learned counsel for the State are ad idem that, none of the petitioners is proclaimed offender.

Having heard the learned counsel for the parties and after going through the record of the case, this Court is of the considered opinion that it is a fit case for exercising the inherent jurisdiction of this Court under Section 482 Cr.P.C., so as to secure the ends of justice. It is so said because the parties have arrived at an out of Court settlement by way of compromise (Annexure P-2). The compromise is without any pressure and a genuine one. In such a situation, continuation of the prosecution would result in sheer abuse of process of law.

The above-said view taken by this Court also finds support from the judgment of the Hon'ble Supreme Court of India in **Shiji @ Pappu and others versus Radhika and another, 2012 (1) RCR (criminal) 9** and also from the larger Bench judgment of this Court in **Kulwinder Singh and others versus State of Punjab and another reported as 2007 (3) RCR (criminal) 1052**. The observations made by the Hon'ble Supreme Court in para 13 of the judgment in **Shiji's** case (supra), which can be gainfully followed in the present case, read as under:

> *"It is manifest that simply because an offence is not compoundable under Section 320 IPC is by itself*

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no reason for the High Court to refuse exercise of its power under Section 482 Cr.P.C. That power can in our opinion be exercised in cases where there is no chance of recording a conviction against the accused and the entire exercise of a trial is destined to be an exercise in futility. There is a subtle distinction between compounding of offences by the parties before the trial Court or in appeal on one hand and the exercise of power by the High Court to quash the prosecution under Section 482 Cr.P.C. on the other. While a Court trying an accused or hearing an appeal against conviction, may not be competent to permit compounding of an offence based on a settlement arrived at between the parties in cases where the offences are not compoundable under Section 320, the High Court may quash the prosecution even in cases where the offences with which the accused stand charged are non-compoundable. The inherent powers of the High Court under Section 482 Cr.P.C. are not for that purpose controlled by Section 320 Cr.P.C. Having said so, we must hasten to add that the plenitude of the power under Section 482 Cr.P.C. by itself, makes it obligatory for the High Court to exercise the same with utmost care and caution. The width and the nature of the power itself

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> *demands that its exercise is sparing and only in cases where the High Court is, for reasons to be recorded, of the clear view that continuance of the prosecution would be nothing but an abuse of the process of law. It is neither necessary nor proper for us to enumerate the situations in which the exercise of power under Section 482 may be justified. All that we need to say is that the exercise of power must be for securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of the process of law. The High court may be justified in declining interference if it is called upon to appreciate evidence for it cannot assume the role of an appellate court while dealing with a petition under Section 482 of the Criminal Procedure Code. Subject to the above, the High Court will have to consider the facts and circumstances of each case to determine whether it is a fit case in which the inherent powers may be invoked.*"

The law laid down by the Hon'ble Supreme Court in **Shiji's** case (supra) has been further reiterated by the Hon'ble Supreme Court in its later judgments including in the cases of **Jayrajsinh Digvijaysinh Rana v. State of Gujarat and another, 2012 (12) SCC 401, Gold Quest International Private Limited v. State of Tamil Nadu & Ors., 2014 (4) RCR (Crl) 206, Manohar Singh v. State of Madhya Pradesh and another, 2014 AIR (SC) 3649** and **Narinder Singh and others v. State of**

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Punjab and another, 2014 (6) SCC 466.

Reverting back to the facts of the present case, this Court has satisfied itself that the compromise arrived at between the parties is a genuine one. They have got their statements recorded before the learned trial court, without any pressure. In view of the genuine compromise arrived at between the parties and also in view of the report received from the learned trial court, this Court feels no hesitation to conclude that the continuation of the prosecution any further would be nothing but sheer abuse of the process of law. It would result in wastage of valuable time of the Court because no chance of conviction is left.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned and to secure the ends of justice, FIR No.52 dated 13.9.2014 registered under Sections 306 and 34 IPC at Police Station Mattewal, District Amritsar (Rural) and the consequential proceedings arising therefrom are ordered to be quashed, however, qua the petitioners only.

Resultantly, with the above-said observations made, the instant petition stands allowed.

1.12.2015 **(RAMESHWAR SINGH MALIK)**
mks **JUDGE**

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